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Our File No.: 114454

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Garam Park, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

Suttell & Hammer, P.C.,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Garam Park, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Suttell & Hammer, P.C. (hereinafter referred to as “*Defendant*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendant conducted business within the State of Washington.

PARTIES

5. Plaintiff Garam Park is an individual who is a citizen of the State of Washington residing in Snohomish County, Washington.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant Suttell & Hammer, P.C., is a Washington Professional Corporation with a principal place of business in King County, Washington.

8. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

9. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

10. Defendant alleges Plaintiff owes a debt (“the Debt”).

11. The Debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Sometime after the incurrence of the Debt, Plaintiff fell behind on payments owed.

13. Thereafter, at an exact time known only to Defendant, the Debt was assigned or otherwise transferred to Defendant for collection.

1 14. In its efforts to collect the debt, Defendant contacted Plaintiff by letter
2 (“the Letter”) dated September 22, 2017. (“**Exhibit 1.**”)

3 15. The Letter was the initial communication Plaintiff received from
4 Defendant.

5 16. The Letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

6 17. 15 U.S.C. § 1692e prohibits a debt collector from using any false,
7 deceptive, or misleading representation or means in connection with the collection
8 of any debt.

9 18. While § 1692e specifically prohibits certain practices, the list is non-
10 exhaustive, and does not preclude a claim of falsity or deception based on any non-
11 enumerated practice.

12 19. The question of whether a collection letter is deceptive is determined
13 from the perspective of the “least sophisticated consumer.”

14 20. A collection letter is deceptive under 15 U.S.C. § 1692e if it can
15 reasonably be read by the least sophisticated consumer to have two or more
16 meanings, one of which is inaccurate.

17 21. A collection letter is also deceptive under 15 U.S.C. § 1692e if it is
18 reasonably susceptible to an inaccurate reading by the least sophisticated
19 consumer.

20 22. 15 U.S.C. § 1692e prohibits a debt collector from using any false,
21 deceptive, or misleading representations or means in connection with the collection
22 of any debt.

23 23. The question of whether a collection letter is deceptive is determined
24 from the perspective of the “least sophisticated consumer.”

25 24. 15 U.S.C. § 1692e(3) prohibits a debt collector from using the false
26 representation or implication that any individual is an attorney or that any
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1 communication is from an attorney.

2 25. 15 U.S.C. § 1692g(b) provides that collection activities and
3 communication during the 30-day period may not overshadow or be inconsistent
4 with the disclosure of the consumer's right to dispute the debt or request the name
5 and address of the original creditor.

6 26. The Letter is on the letterhead of "Suttell & Hammer, Attorneys at
7 Law."

8 27. The Letter identifies Defendant as a debt collector.

9 28. Defendant was acting as a debt collector, as defined by the FDCPA,
10 concerning Plaintiff's alleged debt.

11 29. The Letter is a form collection letter sent to hundreds of consumers.

12 30. The Letter has no opening salutation.

13 31. The Letter states, "Sincerely, Suttell & Hammer."

14 32. The Letter is unsigned.

15 33. The Letter directs Plaintiff to contact Defendant's office rather than
16 any individual attorney.

17 34. No attorney employed by Defendant had any meaningful involvement
18 in the day-to-day collection of Plaintiff's alleged debt.

19 35. The Letter contains no disclaimer concerning the lack of attorney
20 involvement in the collection of Plaintiff's alleged debt.

21 36. The Letter misleads consumers into believing that there is meaningful
22 attorney involvement in the collection of the debt.

23 37. The least sophisticated consumer would likely be deceived by
24 Defendant's conduct.

25 38. The least sophisticated consumer would likely be deceived in a
26 material way by Defendant's conduct.
27
28

1 39. The least sophisticated consumer would likely be deceived into
2 believing that an attorney had meaningful involvement in the collection of the
3 alleged debt.

4 40. Defendant has violated 15 U.S.C. § 1692e(3) by falsely implying that
5 its collection letter is a communication from an attorney.

6 41. Defendant has violated 15 U.S.C. § 1692g(b) as Defendant
7 overshadowed the information required to be provided by that Section.
8

9 **CLASS ALLEGATIONS**

10 42. Plaintiff brings this action individually and as a class action on behalf
11 of all persons similarly situated in the State of Washington from whom Defendant
12 attempted to collect a consumer debt using a collection letter substantially similar to
13 the Letter herein, from one year before the date of this Complaint to the present.

14 43. This action seeks a finding that Defendant's conduct violates the
15 FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. §
16 1692k.

17 44. Defendant regularly engages in debt collection.

18 45. The Class consists of more than 35 persons from whom Defendant
19 attempted to collect delinquent consumer debts using a collection letter
20 substantially similar to the Letter herein.
21

22 46. Plaintiff's claims are typical of the claims of the Class. Common
23 questions of law or fact raised by this class action complaint affect all members of
24 the Class and predominate over any individual issues. Common relief is therefore
25 sought on behalf of all members of the Class. This class action is superior to other
26 available methods for the fair and efficient adjudication of this controversy.

27 47. The prosecution of separate actions by individual members of the
28 Class would create a risk of inconsistent or varying adjudications with respect to

1 the individual members of the Class, and a risk that any adjudications with respect
2 to individual members of the Class would, as a practical matter, either be
3 dispositive of the interests of other members of the Class not party to the
4 adjudication, or substantially impair or impede their ability to protect their
5 interests. Defendant has acted in a manner applicable to the Class as a whole such
6 that declaratory relief is warranted.

7
8 48. Plaintiff will fairly and adequately protect and represent the interests
9 of the Class. The management of the class action proposed is not extraordinarily
10 difficult, and the factual and legal issues raised by this class action complaint will
11 not require extended contact with the members of the Class, because Defendant's
12 conduct was perpetrated on all members of the Class and will be established by
13 common proof. Moreover, Plaintiff has retained counsel experienced in actions
14 brought under consumer protection laws.

15
16 **JURY DEMAND**

17 49. Plaintiff hereby demands a trial of this action by jury.

18 **PRAYER FOR RELIEF**

19 **WHEREFORE**, Plaintiff respectfully requests judgment as follows:

- 20
21 a. Certify this action as a class action; and
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23 b. Appoint Plaintiff as Class Representative of the Class,
and Plaintiff's attorneys as Class Counsel; and
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25 c. Find that Defendant's actions violate the FDCPA; and
26
27 d. Grant damages against Defendant pursuant to 15 U.S.C.
§ 1692k; and
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e. Grant Plaintiff's attorneys' fees pursuant to 15 U.S.C. §

1 1692k; and

2 f. Grant Plaintiff's costs; together with

3
4 g. Such other relief that the Court determines is just and
5 proper.

6
7 DATED: September 18, 2018

8 **BARSHAY SANDERS, PLLC**

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